SUPREME COURT

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1969

No. 346

HICKMAN GARMENT CORPORATION,
Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

SUPPLEMENTAL PETITION FOR A WRIT OF CERTIORARI

CHARLES E. SYKES
BOWLING & SYKES
321 Oak Hall Building
555 S. Perkins Extended
Memphis, Tennessee 38117

MARVIN POSNER
Suite 801
Memphis Bank Building
Memphis, Tennessee

Attorneys for Petitioner

E. L. MENDENHALL, INC., 926 Cherry Street, Kansas City, Mo. 64106, HArrison 1-3030

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STATEMENT

This Supplemental Petition for a Writ of Certiorari is submitted for the sole purpose of bringing to the attention of this Court a decision of the United States Court of Appeals for the Fourth Circuit not available at the time the Petitioner's brief was printed and submitted to this Court.

The explanation follows below:

AUTHORITIES

In *Cone Mills Corp.* v. *N.L.R.B.*, ... F.2d ..... (C.A. 4, 1969) 71 LRRM 2916, the Court had occasion to consider a question almost identical to the one posited in our Petition for Certiorari, and factually similar to our case in almost every relevant respect. Eight employees of the Cone Mills Corp. engaged in an "in plant work stoppage" to protest the discharge of a fellow employee. The Court found that the employees were instructed to return to work or take their protest outside the plant, the employees refused and were then *lawfully* discharged.

Admittedly the employees in our cause were not told to take their protest off of the Company premises but this was irrelevant to the decision in the *Cone Mills Case, supra*, the Court stated:

> "The Examiner, in support of his conclusions, cited *Golay & Co.* v. *N.L.R.B.*, 371 F.2d 259 (C.A. 7, 1966), and in argument before this court on appeal Board counsel seeks support from that decision to sustain the Board's position here. It is contended that the court in Golay held that, when employees are striking on company property, it is *unlawful* to instruct them to resume work or be discharged, but *lawful* to instruct them to resume work or leave the plant and engage in the strike activity off of company property; and, if neither of these *lawful* alternatives is acceptable the employees will be subject to discharge. However, from a careful reading of Golay, the review of the findings of fact by the Examiner, the disposition of the case by the Board, and from the court's opinion it appears that the court, in fact, upheld the discharge of several employees who had been engaged in an in-plant 'work stoppage' for more than a minimal time prior to their discharge; and it does not appear that each of these

discharges was preceded by a warning to the employee to either strike off of company property or be discharged. Many employees were merely asked to return to work and upon refusing to do so or standing mute they were released."

The fact situation presented in our cause is identical in every *relevant* respect.

The aforementioned decision was issued on July 16, 1969. Petitioner's Petition for a Writ of Certiorari was filed on the same day, July 16, 1969.

CONCLUSION

Petitioner, Hickman Garment Corporation respectfully requests that the foregoing additional authority be considered by this Court in the disposition of this cause.

CHARLES E. SYKES
BOWLING & SYKES
321 Oak Hall Building
555 S. Perkins Extended
Memphis, Tennessee 38117

MARVIN POSNER
Suite 801
Memphis Bank Building
Memphis, Tennessee

Attorneys for Petitioner